IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

FRIDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND SEVEN.

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 24721 of 2007

Between:

Gangavaram Khalid Basha … Petitioner

Versus

The Regional Passport Officer,
Station Road, Secunderabad. … Respondents

Counsel for the Petitioner: SRI SYED SHAREEF AHMED

Counsel for the Respondents: NONE APPEARED

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 24721 of 2007

O R D E R:

This Court ordered notice before admission on 22-11-2007.

2. The writ petition is filed for a writ of mandamus, declaring the endorsement made by the respondent in Form No.2 bearing File No.Kev.No. 7703026707, dated nil, directing to obtain a declaratory order from the civil court for correction of date of birth in the Passport as illegal, arbitrary and contrary to judgment rendered by this Court in WP.No.18325 of 2006 dated 19-12-2006 and WP.No.13051 of 2007 dated 22-6-2007 and to pass such other suitable orders as this Court may deems fit and proper in the circumstances of the case.

3. It is stated that the petitioner obtained passport bearing No.F-7742715 in which his date of birth had been entered as 17-10-1983 instead of 17-10-1981. The passport was issued on 28-4-2006 and is valid upto 27-4-2006. It is stated that it is a mistake, consequently a representation was made on 01-8-2007 requesting the respondent to correct the year of date of birth in the passport from 17-10-1983 to 17-10-1981 to which the petitioner enclosed the school certificate issued by the school authorities. On receipt of the said representation, the respondent directed the petitioner to pay a sum of Rs.1000/- and submit Form No.2. Accordingly, the petitioner paid a

sum of Rs.1000/- on 01-8-2007 in cash and also directed to file an affidavit duly notarized and accordingly an affidavit duly notarized was filed on 06-11-2007 but unfortunately Form No.2 had been rejected with endorsement to obtain court orders, as such, the said endorsement is questioned in this writ petition, which is contrary to the judgments of this court referred supra.

4. It is stated that when the petitioner approached the respondent authority in-person, he was informed that the Government of India had issued a Circular on 18-4-2001 in respect of correction of date of birth etc. Further it is stated that this Court had an occasion to consider the said circular in WP.No. 18325/2006 dated 19-12-2006 and the said judgment had become final.

5. It is stated that the school authority issued certificate where the studied upto V class, his date of birth had been recorded as 17-10-1981 but it is recorded in the passport as 17-10-1983 which is purely a clerical error and in view of the interpretation made by this Court, the respondent is bound to effect necessary correction.

6. It is stated that this Court had specifically considered clause (c) of the Circular and held that the endorsement made is unwarranted and the orders have been passed mechanically without proper appreciation and consideration of the material produced.

7. In such circumstances, it is stated that the petitioner is left with no other option except approaching this court praying for the appropriate reliefs as specified supra.

6. This Court in **Mohd**. **Nasrullah Khan** V. **Regional Passport Officer**, **Hyderabad**[1] it was held thus:

> "In Ali Imran V. Regional Passport Officer, Secunderabad, I have considered the Circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.
>
> *(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*
>
> *(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.*
>
> (c) *Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority*

i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt. 18.4.2001."

7. In **Durgempudi Venkata Raghava** V. **Passport Officer**, **Ministry of External Affairs**, **Passport Office**, **Hyderabad**[2] it was held as hereunder.

"Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No.8533 of 2004 was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the

observations made in the said judgment.

It is no doubt true that the present Writ Petition was filed in the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18.4.2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona fide mistake, which had crept in.

Apart from this aspect of the matter, no counter-affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.S.C. certificate, Intermediate certificate and also Degree certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.

The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.

In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18.4.2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the application form but a bona fide mistake had crept in, the Writ Petition is disposed of with the following directions."

8. In the light of the circular referred to supra and also the decisions specified supra, the action of the respondent is not justified. In view of the same, the writ petition is disposed of directing the respondent to entertain the application of the petitioner for correction of correct date of birth in the light of the facts and circumstances and also pass

appropriate orders in the light of the circulars referred to supra and also the views expressed by this Court in the decisions referred to supra, within four weeks, from the date of receipt of a copy of this order.

9. The writ petition is disposed of at the stage of admission. No costs.

JUSTICE P . S .
NARAYANA .
07 /12/2007.

NB: Furnish CC of the Order on 10-12-2007.
B/o. IsL

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[1] 2005(1) ALT 95
[2] 2005 (1) ALT 751